

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

GREG A. HART,

Plaintiff,

v.

**CAVALRY SPV I, LLC, a foreign limited
liability company; SUTTELL HAMMER
& WHITE, PS, a foreign corporation;
NICHOLAS R. FILER, an individual,**

Defendants.

Civ. No. 6:15-cv-00595-MC

OPINION AND ORDER

MCSHANE, Judge:

Defendants jointly moved for dismissal for failure to prosecute. Fed. R. Civ. P. 41(b). In determining whether to dismiss this case for lack of prosecution, the Court has weighed five factors: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring the disposition of cases on their merits; and (5) the availability of less drastic sanctions.”

Moneymaker v. CoBen (In re Eisen), 31 F.3d 1447, 1451 (9th Cir. 1994).

This Court finds Plaintiff’s delay to move forward in his case to be unreasonable, and from the docket, appears to have abandoned his case. Plaintiff has taken no action since June 2016 when his attorney moved to withdraw citing that he has not been in contact with his client for several weeks. ECF No. 30. A defendant is always prejudiced to some minimum extent whenever a case is filed against them but that prejudice increases the longer a case is pending. A

defendant continues to expend resources, and is prejudiced when forced to defend against a plaintiff who fails to timely prosecute their case. Plaintiff's complaint is based on allegations of a violation of the fair debt collection practices act. Compl., ECF No. 1. The underlying state debt collection lawsuit, premised by plaintiff as the violation, has been resolved in favor of the defendants. Def's Br. 2-3., ECF No. 33.

Because the five factors weigh in favor of granting dismissal for failure to prosecute, Defendants' Joint Motion to Dismiss, ECF No. 33, is GRANTED.

IT IS SO ORDERED.

DATED this 18th day of October, 2016.

/s/ Michael J. McShane
Michael J. McShane
United States District Judge